

1 ALBERT ERKEL (SBN 93793)  
aerkel@ghslaw.com  
2 NORMA NAVA FRANKLIN (SBN 266827)  
nnava@ghslaw.com  
3 JANET LY (SBN 211401)  
jly@ghslaw.com  
4 GARCIA HERNANDEZ SAWHNEY, LLP  
801 N. Brand Blvd., Suite 620  
5 Glendale, CA 91203  
6 PHONE (213)-347-0210  
FAX (213) 347-0216

7 Attorneys for Defendants Oxnard School District,  
Cesar Morales, Ernest Morrison, Debra Cordes,  
8 Denis O'Leary, Veronica Robles-Solis, and  
Monica Madrigal Lopez  
9

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 J.R., a minor, by and through her  
guardian ad litem, Janelle McCammack;  
13 M.B., a minor, by and through her  
guardian ad litem, F.B.; I.G., a minor, by  
14 and through his guardian ad litem, M.E.,  
on behalf of themselves and all those  
15 similarly situated,

16 Plaintiffs,

17 v.

18 OXNARD SCHOOL DISTRICT;  
CESAR MORALES, Superintendent of  
19 Oxnard School District, in his official  
capacity; ERNEST MORRISON,  
President of the Board of Trustees, in his  
20 official capacity; DEBRA CORDES,  
Clerk of the Board of Trustees, in her  
official capacity; DENIS O'LEARY,  
21 Trustee of the Board of Trustees, in his  
official capacity; VERONICA ROBLES-  
22 SOLIS, Trustee of the Board of Trustees,  
in her official capacity; MONICA  
23 MADRIGAL LOPEZ, Trustee of the  
Board of Trustees, in her official  
24 capacity; and DOES 1 TO 10, inclusive

25 Defendant

Case No.: 2:17-cv-04304-JAK-FFM

[CORRECTED]

**DECLARATION OF AMELIA  
SUGDEN IN SUPPORT OF  
DEFENDANT'S OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION**

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**Declaration of Amelia Sugden**

I, Amelia Sugden, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.

**Background and Credentials**

2. I am the current Director of Special Education Services at the Oxnard School District ("OSD" or "District"). I have served in this capacity since the October 2015. Prior to becoming the Director of Special Education at OSD, I was a Principal for eight years in OSD between June 2007 and August 2015. Prior to becoming a Principal, I was a Professional Development Coordinator for OSD for five years between 2002 and 2007 and an Adjunct Professor at California Lutheran University, where I taught current literacy research and best practices to teachers earning a Master's Degree. Prior to becoming an administrator, I was a classroom and reading resource teacher in OSD for five years between 1997-2002.

3. I have a Masters of Science in Curriculum and Instruction from Walden University and a Bachelor of Arts from the University of California, Davis in International Relations and Affairs. I also have a Multiple Subject teaching credential and a Bilingual Cross-Cultural Language Academic Development (BCLAD) certificate in Spanish. Attached hereto as **Exhibit A** is a true and correct copy of my most current resumé.

4. As the Director of Special Education at OSD, my job duties include providing oversight of the delivery of special education services to students in the Oxnard School District as provided by the IDEA, including reviewing of current needs that may require additional resource development; maintaining up to date information on the current law and best practices for our programs; serving as the district representative at our Special Education Local Plan Area (SELPA); and compiling information for State and Federal reporting purposes.

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OSD's Special Education Programs

5. OSD is part of the Ventura County Special Education Local Plan Area (SELPA). The range of special education programs at OSD includes Infant, Early Intervention 0-3 and Pre-K programs, and Resource Specialist Programs ("RSP"), Mild-to-Moderate and Moderate-to-Severe self-contained classrooms in the Transitional Kindergarten to 8<sup>th</sup> grade programs. OSD also has programs to support students who are Deaf and Hard of Hearing ("DHH"), Visually Impaired ("VI"), in need of Occupational Therapy ("OT") or Adaptive Physical Education ("APE"), and to support Behavior and Autism Strands.

2011 OCR Complaint and Resolution Agreement

6. I am aware of the decision issued by the U.S. Department of Education, Office for Civil Rights ("OCR") in OCR case no. 09-10-1242 in which the District, without admitting to any violation of law, entered into a Resolution Agreement to resolve the issues investigated by OCR under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. The decision was issued January 11, 2011. Pursuant to the Resolution Agreement, the OSD was required to do the following:

a. Develop or revise, as needed, its Section 504 policies and procedures to ensure that students with disabilities are provided with a free appropriate public education (FAPE), including the timely referral, evaluation, identification, and placement of students with disabilities under Section 504, the full implementation of FAPE determination (i.e. all services and placement provisions) made for students with disabilities under Section 504, and the monitoring and periodic re-evaluation of students with disabilities as required under Section 504.

b. Consider revising its Uniform Complaint Procedures to include OCR's contact information for parents/guardians to file a complaint if they are dissatisfied with the District's grievance process.

c. Conduct Section 504 training for relevant administrators and staff on the District's legal obligations to provide a FAPE to students with disabilities and on the District's Section 504 grievance procedures.

d. Issue a letter to parents/guardians of students who were found not eligible for special education services under the Individuals with Disabilities Education Act (IDEA) in the 2009-10 or 2010-11 school year to inform parents/guardians of their right to request an evaluation under Section 504 or to appeal a denial of an evaluation through due process or fair hearing procedures.

e. Provide notice to parents/guardians of the District's revised Section 504 policies and procedures by posting them on the District website and including relevant information in the next publication of the District's student/parent handbook.

f. Take all necessary steps to implement the Student's Individualized Education Program (IEP), dated October 7, 2010.

7. My understanding is that the District fulfilled all of its obligations under the Resolution Agreement based on a letter that the District received from OCR dated October 7, 2011, in which Arthur Zeidman, the Regional Director of OCR's San Francisco office, wrote that "the District has fulfilled all of its obligations under the [Resolution Agreement] and, accordingly, is closing the monitoring of this case as of [October 7, 2011]." Attached hereto as **Exhibit B** is a true and correct copy of the October 7, 2011 letter from OCR.

Training for Site Administrators, School Staff, and Special Education Staff

8. Since I became the Director of Special Education at OSD, the Special Education Department hosted a professional development training on Child Find for our School Principals to review the District's responsibility for Child Find, the pre-referral process, and Student Success Teams (SSTs). The Pupil Services Department provided training for School Principals regarding the Coordination of Services Team (COST) and Student Success Teams (SSTs). The Special Education Department has also provided

1 training for Assistant Principals, School Psychologists, Speech Pathologists, and Special  
2 Education Teachers at job-alike meetings.

3 9. At the beginning of the 2017-2018 school year, the Special Education  
4 Department also hosted a training for all general education teaching staff,  
5 paraprofessionals, aides, student study team members, school administrators, service  
6 providers, counselors, school psychologists, speech and language therapists, and any other  
7 school staff who worked with parents and students on their educational programs at Soria  
8 Elementary School, Elm Elementary School, and Sierra Linda Elementary School. The  
9 training addressed special education eligibility, child find duties, and the ability to directly  
10 refer a student for assessment, and provided guidelines to identify students who might  
11 have disabilities and might benefit from special education services. The Special Education  
12 Department plans to conduct a similar training to all of the staff at all the remaining school  
13 sites between January and March 2018.

14 10. The District has also provided professional development for special  
15 education teachers for use of new assessments and for determining present levels and goals  
16 setting.

#### 17 Personnel Hiring

18 11. Since I became Director of Special Education at OSD, the District has hired  
19 the following:

- 20 • 1 full-time Special Education Manager to help the Special Education  
21 Department to carry out its day-to-day work and to support the school  
22 sites. 1 of the fulltime Managers is dedicated to our infant, early childhood  
23 and pre-school programs.
- 24 • 1 itinerant Assistant Principal to support K-5 sites with large special  
25 education caseloads
- 26 • 3 full-time interpreters/translators to clear a backlog of untranslated IEP  
27 documents and to maintain the District's current turnaround time of two  
28 weeks;

- 4 full-time School Psychologists, 3 part-time School Psychologists, and 1 part-time Psychologist Mentor so support all of the School Psychologists;
  - 1 full-time Speech Pathologist and 1 part-time Speech Pathologist to support OSD's Building Early Success Together (BEST) program for preschoolers;
  - 5 Speech Pathologist Assistants;
  - 3 Occupational Therapists
  - 2 Teachers on Special Assignment ("TOSA") to prepare curriculum for both the Mild-to-Moderate and Moderate-to-Severe programs with a focus on literacy development and applied science for OSD's Extended School Year program; and
  - 2 itinerant teachers to support teachers on leave and growing caseloads.
12. The District has also hired the following specialists:
- 2 teachers for the Deaf and Hard of Hearing program at Thurgood Marshall School and 1 itinerant teacher for the Deaf and Hard of Hearing;
  - 1 itinerant teacher for the Visually Impaired program, which was moved from McKinna Elementary School to Thurgood Marshall School (K-5) and Frank Middle School (6-8); and
  - 2 Family Liaisons were added to the Pre-school program to support families with the transition in services from the Tri County Regional Center (TCRC) to the Oxnard School District.
  - 2 Behavior Specialist to support the behavior needs of students with IEP's and to develop a program to address the needs of students with eligibility of emotional disturbance.

#### Early Childhood Programs

13. Since I became Director of Special Education at OSD, OSD site administrators and School Psychologists have been directed to conduct systematic reviews of all preschool students who were receiving interventions and/or had been referred to a



1 Student Study Team (“SST”) to identify students that should be considered for full  
2 assessment.

3 14. In order to accommodate the growing number of referrals to OSD’s infant  
4 and early childhood programs from local pediatricians, community partners, and the Tri-  
5 Counties Regional Center, the District has successfully completed Phase One of  
6 restructuring the Infant, Building Early Success Together (BEST), and San Miguel Pre-  
7 school program and delivery of services at one combined facility. The District has also  
8 assigned a full-time Special Education Manager to the pre-school, and eliminated two  
9 Office Assistant positions and replaced them with an Office Manager and an Attendance  
10 Technician to increase the level of support at that site for both staff and families. Phase  
11 Two of restructuring the Early Childhood Program at San Miguel will include parent  
12 education, five hubs for speech and infant services, staggered start to support Transitional  
13 Kindergarten and Kindergarten students’ transition to their home schools.

14 15. The District piloted and adopted a new curriculum at San Miguel Preschool  
15 in order to develop a common practice, and the pre-K assessment team has reviewed its  
16 inventory of assessment tools in order to ensure that the assessment tools that are being  
17 utilized meet current best practices.

18 16. In order to provide preschool students in Special Day Classes with  
19 opportunities to mainstream with general education students, the District successfully  
20 worked with its State Pre-School partner to ensure that the morning and afternoon classes  
21 hosted at San Miguel Preschool have dedicated slots for our students to mainstream into.  
22 In addition, the District is sharing a Speech and Language Pathologist with the State Pre-  
23 School partner to ensure that students identified through the District’s screening process  
24 are receiving Speech and Language Response to Intervention (RtI) services and are  
25 monitored for either exit of services or scheduled for a full assessment.

26 17. The District has aligned Speech and Language Pathologist assignments and  
27 the delivery of Speech and Language services at the District’s Neighborhood for Learning  
28 (“NfL”) hubs to provide a better continuum of care for families within the District.





1        OSD's Process for Identifying and Assessing Students with Suspected Disabilities

2        23. Based on my understanding, OSD's practice for identifying and assessing  
3 students for special education assessment is legally compliant with the Individuals with  
4 Disabilities Education Act ("IDEA") and California law.

5        24. In OSD, a student may be referred for special education assessment upon  
6 Parent request or upon the request of a teacher or other staff person who believes that a  
7 student has a suspected disability that impacts the student's involvement and progress in  
8 the general education setting and/or participation in age appropriate activities. Upon  
9 receiving a request for special education assessment, each school site is expected to  
10 respond to the request within the legal timeline of 15 calendar days with a proposed  
11 assessment plan. In some cases, a Student Success Team (SST) may be convened within  
12 15 days of the request for assessment so that the SST may receive input from the student's  
13 parent, the student's teacher, and other school staff regarding any concerns relating to the  
14 student. This information is then used to generate a multidisciplinary assessment plan  
15 (MAP), which is presented to Parent for consent to assess his or her student for all areas  
16 of suspected disability. The same process and timeline is followed whether the request for  
17 assessment originates from a parent or from a school staff person.

18        25. In addition to direct requests for assessment by Parent or school staff,  
19 students may also be referred for special education assessment after having been referred  
20 to a Coordination of Services Team (COST) and/or a Student Success Team (SST). The  
21 District's Child Find duty toward a specific child is triggered when there is knowledge of,  
22 or reason to suspect, a disability and reason to suspect that special education services may  
23 be needed to address that disability. Sometimes a student's disability is not obvious and/or  
24 does not immediately raise a reasonable suspicion of its existence. In these instances,  
25 students who struggle in the general education setting may be referred to COST or SST.  
26 If a child who has been referred to COST or SST does not make adequate progress after  
27 general education interventions are utilized to attempt to address the concerns that were  
28 raised in the student's referral to COST or SST, the COST or SST may refer a student for

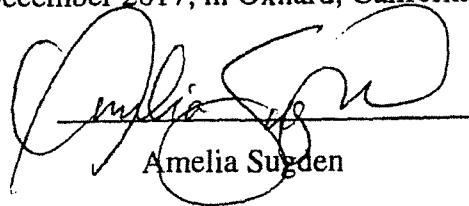
1 special education assessment to determine whether the student qualifies for special  
2 education services and/or related services.

3       26. There are multiple factors that determine whether a student should be referred  
4 for special education assessment. These factors include whether a parent or staff person  
5 (including a teacher) expressly requests that a student be assessed, whether the COST or  
6 SST determines that an assessment is necessary after progress monitoring and response to  
7 intervention, or even whether a student manifests an obvious disability that interferes with  
8 his or her ability to participate in the general education setting. Accordingly, every  
9 decision to assess a student for special education is based on a highly individualized set  
10 of factors and is made on a case-by-case basis.

11       I declare under penalty of perjury under the laws of the United States that the  
12 foregoing is true and correct.

13       Executed this 11th day of December 2017, in Oxnard, California.

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Amelia Sugden